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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/678,912

10/06/2003

Steven Lee Boehmke

BOE-1

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STETINA BRUNDA GARRED & BRUCKER

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ALISO VIEJO, CA 92656

EXAMINER

WAGGENSPACK, ADAM J

ART UNIT

PAPER NUMBER

3782

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/678,912	<b>Applicant(s)</b> BOEHMKE, STEVEN LEE	
	<b>Examiner</b> ADAM WAGGENSPACK	<b>Art Unit</b> 3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,5 and 7-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-2, 4-5, and 7-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Objections*

1. Claim 9 is objected to because of the following informalities: "permanent connections" is repeated. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-2, 4-5, and 7-9 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent #2,554,865 to Lydick (Lydick). Lydick discloses:

#### In Respect to Claim 1

The wheeled vehicle as claimed (bicycle, FIGS. 1 and 2); an article storage basket (10) located above the front wheel (FIG. 2); rigid support means (15) permanently securing said basket to said manual steering means (handle bars 12 and clamps 11); said rigid support means comprising two laterally spaced arms (portions of 15 between the rim rod and the clamps 11); each said arm having a first welded connection to the steering means (Col. 2 lines 5-8) and a second welded connection to the basket (Col. 1 lines 54-55 and Col. 2 lines 1-2).

#### In Respect to Claim 2

Each said arm is tubular (FIGS. 1 and 2).

#### In Respect to Claim 4

The manual steering means comprises a set of handlebars (12) joined to a transverse central bar (14), said laterally spaced arms (15) extending between said transverse bar and said basket (FIG. 2).

In Respect to Claim 5

Each said arm is tubular (FIGS. 1 and 2).

In Respect to Claim 7

The basket has the claimed walls (FIGS. 1 and 2); each said arm having a length such that the basket rear wall is spaced an appreciable distance forward from said transverse central bar (FIGS. 1 and 2).

In Respect to Claim 8

The basket rear wall is located directly above the front wheel rotational axis (FIG. 2).

In Respect to Claim 9

The basket comprises an endless tubular rim (10a) that forms an upwardly-open mouth for the basket (FIGS. 1 and 2); said laterally spaced arms being joined to said tubular rim via said second permanent connections (Col. 1 lines 54-55 and Col. 2 lines 1-2).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2, 4, 5, and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent #2,889,096 to Glenn (Glenn) in view of either U.S. Patent #6,293,449 to McGuire (McGuire) or U.S. Patent #6,029,874 to Meggitt (Meggitt).

In Respect to Claim 1

Lyman discloses the wheeled vehicle as claimed (a bicycle); an article storage basket (10) located above the front wheel; rigid support means (18, 22) permanently securing said basket to said manual steering means (handle bars 11); said rigid support means comprising two laterally spaced arms (22); each said arm having a first permanent connection to the steering means (via metal clips 30) and a second permanent welded connection to the basket (welds at intersections 23, Col. 2 lines 31-34); but does not disclose that the first permanent connection is a welded connection.

However, McGuire and Meggitt discloses that it is known in the art to use a welded connection instead of a clamping connection to attach a carrier to bicycle handlebars (McGuire Col. 2 lines 62-67, Meggitt Col. 2 lines 40-45).

It would have been obvious to one of ordinary skill in the art at the time of the invention, given Lyman's disclosure to use a welded connection to attach the arms (22) to the basket, and McGuire's or Meggitt's disclosure to replace a clamping connection with a welded connection to attach a carrier to bicycle handlebars, to replace the clamping connection of the clips (30) of Lyman with a welded connection, as a mere substitution of one art known fastening means for another. Doing so constitutes merely

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making integral, which does not patentably distinguish over the prior art (MPEP 2144.04(V)(B)).

In Respect to Claim 2

Each said arm is tubular (FIGS. 1 and 2).

In Respect to Claim 4

The manual steering means comprises a set of handlebars (11) joined to a transverse central bar (12), said laterally spaced arms (22) extending between said transverse bar and said basket (FIG. 2).

In Respect to Claim 5

Each said arm is tubular (FIGS. 1 and 2).

In Respect to Claim 7

The basket has the claimed walls (FIGS. 1 and 2); each said arm having a length such that the basket rear wall is spaced an appreciable distance forward from said transverse central bar (FIG. 2).

In Respect to Claim 8

Glenny does not show or discuss the location of the basket relative to the bicycle front wheel.

However, the location of the basket rear wall will be above the front wheel, and if the basket rear wall is not located directly above the front wheel rotational axis when the bicycle is perfectly horizontal, the bicycle can easily be oriented by a user so that it is. Examiner notes that such orientation changes can occur when a user is riding up or down a hill, or putting the bicycle onto a rack or the like for storage.

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In Respect to Claim 9

The basket comprises an endless tubular rim (10a) that forms an upwardly-open mouth for the basket (FIGS. 1 and 2); said laterally spaced arms being joined to said tubular rim via said second permanent connections (Glenny Col. 2 lines 31-34).

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Glenny in view of McGuire or Meggitt as applied to claim 7 above, and further in view of Lydick.

In Respect to Claim 8

Glenny does not show or discuss the location of the basket relative to the bicycle front wheel, and so does not disclose that the basket rear wall is located directly above the front wheel rotational axis.

However, Lydick discloses locating the rear wall of a bicycle mounted article carrier directly above the front wheel rotational axis (FIG. 2).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have the rear wall of the basket of Glenny in view of McGuire or Meggitt be placed directly above the front wheel rotational axis as taught by Lydick, as a mere selection of an art appropriate location for it. Doing so constitutes a mere change in size, which does not patentably distinguish over the prior art (MPEP 2144.04(IV)(B)).

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patents #3,391,582 and #4,794,815 disclose removable handlebars similar to applicant's.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to ADAM WAGGENSPACK whose telephone number is (571)270-7418. The examiner can normally be reached on Mon-Fri 9 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571)272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. W./  
Examiner, Art Unit 3782

/Justin M Larson/  
Examiner, Art Unit 3782  
8/13/10